

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Petition for  
Early Termination of Probation  
of:**

**SHERNA MADAN, M.D.**

**Case No. 800-2014-005526**

**Physician's and Surgeon's  
Certificate No. G 43846**

**Petitioner**

**DECISION**

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on May 8, 2015.

IT IS SO ORDERED April 8, 2015.

**MEDICAL BOARD OF CALIFORNIA**

By: Dev Gnanadev MD  
Dev Gnanadev, M.D., Chair  
Panel B

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for Early  
Termination of Probation of:

SHERNA MADAN, M.D.

Physician's and Surgeon's Certificate  
No. G 43846

Petitioner.

Case No. 800-2014-005526

OAH No. 2014090674

**PROPOSED DECISION**

Administrative Law Judge David L. Benjamin, State of California, Office of Administrative Hearings, heard this matter on January 6, 2015, in Oakland, California.

Deputy Attorney General Joshua M. Templet represented the Office of the Attorney General.

Thomas Still, Attorney at Law, Hinshaw, Marsh, Still & Hinshaw, LLP, represented petitioner Sherna Madan, M.D., who was present.

The matter was submitted on January 6, 2015.

**FACTUAL FINDINGS**

1. On November 24, 1980, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. G 43846 to petitioner Sherna Madan, M.D. As of May 28, 2014, the date of the Board's license certification, petitioner's certificate was renewed and current with an expiration date of September 30, 2014.

2. Petitioner earned her undergraduate degree from the University of California, Berkeley, in 1969, and her medical degree from the University of California, Los Angeles, in 1979. (From 1969 to 1974, petitioner was in post-graduate chemistry programs at the University of Wisconsin, Madison, and at UCLA.) She worked for Kaiser Permanente in Southern California from 1982 to 1984, and at various times she has also worked as a medical director at diabetes treatment centers. Since about 1986, petitioner has maintained a

private practice in internal medicine and endocrinology in the Redwood City-San Carlos area. From about 1985 until 2011, petitioner was board certified in internal medicine with a subspecialty of endocrinology and metabolism. She states she lost her certification in 2011, after the Board filed its accusation in this case.

3. In 2010, the Board's executive director issued an accusation against petitioner. (Case No. 03-2009-198152.) In summary, the accusation alleged that, between 2004 and 2010, petitioner and Linda Moore, a registered nurse, operated an aesthetic medical practice called "Re:Juvenate," a practice area in which petitioner had no training or experience. The practice provided services such as the administration of Botox, the injection of fillers, laser treatments, medical skin peels and cryotherapy, and the injection of other medical devices or dangerous drugs. The accusation alleged that all of these treatments are medical in nature and must be performed by a physician or supervised by a physician, and Re:Juvenate advertised that the treatments were medically supervised. According to the accusation, however, Moore administered the treatments; petitioner did not supervise the treatments and, in most instances, never saw the patients; petitioner's involvement was limited to signing off on Moore's chart after the treatments were performed; and four patients were harmed by these treatments, three of whom petitioner never examined or saw. Petitioner, it was alleged, had her internal medical practice in an adjacent office, and was seldom on the premises of Re:Juvenate. The accusation charged petitioner with numerous instances of gross negligence, repeated acts of negligence, incompetence, and unprofessional conduct by purporting to supervise medical treatment she was not competent to supervise; failing to supervise Moore; authorizing and enabling Moore to engage in the unlawful practice of medicine; failing to see patients who had medical complications; and falsely advertising that Re:Juvenate's services were medically supervised by a physician.

4. Petitioner and complainant entered into a Stipulated Settlement and Disciplinary Order on June 1, 2011. The Board adopted it on June 6, 2011, and it took effect the same day. In the Stipulated Settlement, petitioner agreed that, at hearing, complainant could establish a prima facie case with respect to the charges and allegations, and that she had subjected her certificate to discipline. The Disciplinary Order placed petitioner on probation for five years subject to standard terms and conditions, and additional conditions which prohibit her from practicing aesthetic medicine or performing cosmetic procedures, and which require that she complete medical record keeping and ethics courses, and provide 60 hours of free medical service within the first two years of probation.

5. On February 18, 2014, petitioner signed and then submitted to the Board a Petition for Penalty Relief, and this hearing followed.

#### *Petitioner's evidence*

6. Petitioner has complied fully with the terms of her probation. She has not practiced aesthetic medicine; she successfully completed courses in medical record keeping and ethics; and she has completed more than her required number of free medical service

hours. Since October 2011, petitioner has completed over 100 hours of continuing medical education.

7. Since her certificate was placed on probation, petitioner has continued to maintain her private practice in internal medicine, endocrinology and metabolism.

8. Petitioner states it is a “strange story” how she became involved in aesthetic medicine. Her landlord, who was not a physician, told her that she worked too hard for too little money. He told her that he had undergone hair removal treatments that had “cost him a fortune,” and he recommended that petitioner look into performing the procedure. The landlord offered to help her financially. According to petitioner, after consulting with legal counsel on the propriety of the relationship, she became affiliated with Moore. Petitioner testified that her relationship with Moore ended in 2010 when she discovered that Moore had “sociopathic tendencies” and had embezzled money.

9. In her Narrative Statement to the Board, petitioner offers the following reasons for terminating her probation early:

I have learned my lesson from this horrifying experience and do not think that I will ever want to delegate patient care to a physician extender in the future. . . . Having said this, I have in fact worked with excellent physician assistants and nurse practitioners . . . . However, this experience has made me doubt my ability to always and accurately judge the character and veracity of physician extenders and I plan not to use them as my medical career winds down. I also do not plan to restart an esthetic practice. I do not anticipate that the Medical Board will ever have to discipline me again.

I have learned a great deal about myself and others through this ordeal. I would like to put this painful experience behind me so I can spend the remaining years of my practice dedicated to helping my patients improve the quality of their lives through preventive medicine, patient education, and high quality patient care.

10. Petitioner’s testimony at hearing was to the same effect. She feels she was disciplined because her supervision of Moore was inadequate. In petitioner’s words, she should have been “more observant and less trusting.” Petitioner testified that, at the time, it “seemed unusual to [her]” that she did not have to see every patient herself, but her attorney told her “that was the standard of practice.”

11. Petitioner submitted two character references in support of her petition, as required by statute. (Bus. & Prof. Code, § 2307, subd. (c).)

Michelle Fiore, M.D., is a patient of petitioner's, as is Dr. Fiore's mother. In her letter dated April 16, 2014, Dr. Fiore attests that petitioner has abandoned her aesthetic medicine practice. Dr. Fiore writes that she has the

highest regard for [petitioner's] medical expertise, integrity, and compassion toward her patients. Her professionalism is undisputed in our community. She is dearly loved by fellow physicians and patients alike. I look to her advice on patient care, particularly those with obscure and difficult to treat conditions. Her loss to our community would be devastating to many of our patients, to say the least.

Other than her reference to discontinuing the aesthetic medicine practice, Dr. Fiore does not speak to the reasons for petitioner's discipline or her efforts at rehabilitation. Dr. Fiore does not explain why she believes this matter involves the potential loss of petitioner's services to the community.

In a letter dated April 1, 2014, Inder Perakash, M.D., M.S., FACS, FRCS, writes that petitioner

is an outstanding physician and a compassionate medical practitioner. She has always been a very responsible colleague. . . . [¶] We really need physicians like her in practice. In the context of her exceptional career I feel there is a need to re-evaluate the unfortunate mishaps or vendetta which seems to have lead [sic] to her probation. Clearly, there is absolutely no problem with her medical knowledge, and her care and attention to patients, which she has provided very ably over her almost 30 years in her practice in the community. She is certainly among the best diabatologist [sic] in the San Francisco Bay Area that I have known in the past 15 plus years.

Dr. Perakash's letter does not demonstrate any knowledge of the matters that led to the discipline of petitioner's certificate, and does not address any rehabilitative efforts that petitioner has made.

12. Petitioner remains under financial pressure today. In 2012, she owed her landlord approximately \$100,000, and they have been in litigation for several years.

## LEGAL CONCLUSIONS

1. When it acts on a petition for early termination of probation, the Board "may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate

was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability." (Bus. & Prof. Code, § 2307, subd. (e).)

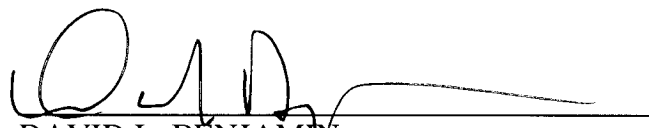
2. Petitioner has complied with the terms of her probation: she has abstained from practicing aesthetic medicine; she has completed courses in ethics and medical record keeping; and she has completed her community service obligation. Compliance with probation, however, is expected of all probationers. The issue is whether petitioner's rehabilitation has progressed sufficiently such that her probation should be terminated early.

On that issue, the evidence is weak. Petitioner states that she has "learned her lesson" and will not re-establish her aesthetic practice, and will not use physician extenders. But while petitioner sees this case as a failure to supervise, the accusation goes to more fundamental issues of her professional judgment and ethics: it alleges that, for a period of years, petitioner maintained an aesthetic medicine practice in which she did not see her patients; enabled Moore to practice medicine; and falsely advertised that all treatments were supervised by a physician. As to these matters, there is no meaningful evidence of rehabilitation. Petitioner has failed to show that her rehabilitation has progressed to the point that her probation should be terminated early.

#### ORDER

The Petition for Early Termination of Probation of petitioner Sherna Madan, M.D., is denied.

DATED: February 9, 2015

  
DAVID L. BENJAMIN  
Administrative Law Judge  
Office of Administrative Hearings